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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,425	12/28/2000	Thomas J. Grimsley	XXT-092	7861

7590 10/05/2004  
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EXAMINER

NGUYEN, TU T

ART UNIT PAPER NUMBER

2877

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/750,425

**Applicant(s)**

GRIMSLEY, THOMAS J.

**Examiner**

Tu T. Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-8 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Species I (claims 1,3-8,11-14) in the reply filed on 08/19/2003 is acknowledged. The traversal is on the ground(s) that there is no distinct between Species I and II. This is found persuasive so the restriction requirement sent on 07/14/2003 has been withdrawn.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1,3-8,11-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3-8,11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (Figs 1, 2A-2E) (AAPA hereinafter) in view of Fan et al (6,171,885).

With respect to claims 1,11,13, AAPA discloses a method for producing sensors for use in an image forming system. The method comprises: embedding sensors 14a-c (fig 2A) in a substrate 18 (fig 2A) to form sensor areas and non-sensor area 20 (fig 2A);

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applying a base filter 22 (fig 2A), applying a first filter layer 24 (fig 2B) and second layer filter 26 (fig 2A).

AAPA does not disclose depositing the first filter layer to planarize the device.

Fan discloses a method for making sensors. The method comprises: applying a layer to planarize the system (abstract) (fig 9B). It would have been obvious to modify AAPA with Fan's method to planarize the system to make the system more efficient.

With respect to claims 3,12,14, AAPA discloses applying a translucent base layer 22 (fig 2A or specification page 6, line 14).

With respect to claim 4, since AAPA's sensor has been used for sensing images, AAPA inherently discloses mounting the electro-optical device in an image forming system.

With respect to claim 5, AAPA does not explicitly disclose a pigment. However, filter layer contains a pigment would have been known. It would have been obvious to modify AAPA with the known claimed layer a pigment to make the sensor more efficient.

With respect to claim 6, AAPA discloses applying a second filter 26 (fig 2D). Further refer to discussion in claim 1 above for planarizing the device.

With respect to claim 7, AAPA does not explicitly disclose a third layer filter. However, Fan discloses using a plurality of layers filter 29-33 (fig 7). It would have been obvious to modify AAPA with a plurality filters as taught by Fan for detecting a plurality primary colors. The modification involves only routine skill in the art.

With respect to claim 8, it would have been obvious that each filter layer in AAPA corresponding to a primary color.

***Allowable Subject Matter***

Claims 15-19 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: Prior arts of record do not disclose a method for fabricating a color sensing device. The method comprises the steps of: depositing a first filter layer over a substrate, exclusive of a third sensor area; depositing a second filter layer over the substrate, exclusive of a first sensor area; and depositing a third filter layer over the substrate, exclusive of a second sensor area as disclosed in claim 15.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu T. Nguyen whose telephone number is (571) 272-2424. The examiner can normally be reached on T-F 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley Jr. can be reached on (571) 272-2800 Ext. 77. The fax

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phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tu T. Nguyen  
Primary Examiner  
Art Unit 2877

09/30/2004